

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT DALE MOON,

Plaintiff,

Case No. 1:08-cv-188

v.

Honorable Gordon J. Quist

GRATIOT COUNTY JAIL et al.,

ORDER OF TRANSFER

Defendants.

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983. Plaintiff presently is incarcerated at the West Shoreline Correctional Facility. Plaintiff sues Gratiot County Jail and Officer Marty Schuller. In his *pro se* complaint, Plaintiff alleges that Defendant Schuller used excessive force when he was taken to Gratiot County Jail. The events giving rise to Plaintiff's action occurred in Ithica, Michigan, which is located in Gratiot County. Gratiot County is within the geographical boundaries of the Eastern District of Michigan. 28 U.S.C. § 102(a).

Under the revised venue statute, venue in federal-question cases lies in the district in which any defendant resides or in which a substantial part of the events or omissions giving rise to the claim occurred. 28 U.S.C. § 1391(b). Defendants are public officials serving in Gratiot County, and they "reside" in that county for purposes of venue over a suit challenging official acts. *See Butterworth v. Hill*, 114 U.S. 128, 132 (1885); *O'Neill v. Battisti*, 472 F.2d 789, 791 (6th Cir. 1972). Plaintiff's allegations against these Defendants arose in Gratiot County, where Defendants allegedly committed the acts giving rise to this case. *See Leroy v. Great W. United Corp.*, 443 U.S. 173, 185-87 (1979). In these circumstances, proper venue is in the Eastern District. Therefore:

IT IS ORDERED that this case be transferred to the United States District Court for the Eastern District of Michigan pursuant to 28 U.S.C. § 1406(a). **It is noted that this Court has not decided Plaintiff's motion to proceed *in forma pauperis*, nor has the Court reviewed Plaintiff's complaint under 28 U.S.C. §§ 1915(e)(2), 1915A, or under 42 U.S.C. § 1997e(c).**

IT IS SO ORDERED.

Dated: March 7, 2008

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge